



United States Department of Agriculture  
Food and Nutrition Service

Southeast Region

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**Reply to**

**Attn. of:** SERO Policy

July 15, 2004

**Subject:** CACFP Policy Number 226.06-36: For-profit Center Eligibility Based on 25 Percent Free and Reduced Price Meal Eligibility

**To:** All State Directors

Child and Adult Care Food Program (CACFP)  
Southeast Region

This Policy Memorandum rescinds CACFP Policies 226.06-29 and 226.06-30. Please remove those memoranda and file this memorandum in your Southeast Regional Office numbered policy system.

The Child Nutrition and WIC Reauthorization Act of 2004 permanently establishes, at section 17(a)(2)(B)(i) of the Richard B. Russell National School Lunch Act (NSLA), that for-profit centers (also referred to as proprietary centers) in all states may participate in the CACFP if at least 25 percent of the children served are eligible for free and reduced price (F/RP) meals. As described at section 17(a)(2)(B)(ii) of the NSLA, for-profit centers may also continue to qualify for CACFP participation if at least 25 percent of enrolled children or 25 percent of licensed capacity (whichever is less) receive Title XX compensation. New or currently participating for-profit organizations may choose to participate under either eligibility provision (provided they meet the appropriate requirements). This provision was originally established December 21, 2000, as a temporary provision under Public Law 106-554, the Consolidated Appropriation Act.

**Terminology:**

For purposes of this memorandum, we will refer to for-profit organizations participating under the current Title XX requirements as "for-profit Title XX centers." We will refer to for-profit organizations participating under this authority as "for-profit F/RP centers."

**General:**

For-profit organizations entering the CACFP under this provision must meet all other Program requirements applicable to participating institutions, including the requirement to maintain a nonprofit meal service. In addition, State agencies must continue to conduct the pre-approval visits required by section 17(d)(1) of the NSLA and discussed in SERO Policy Memorandum 226.06-23: Pre-approval Visits in CACFP. It is vital that new facilities entering the program thoroughly understand their responsibilities and have the technical expertise to properly administer the CACFP.

**Reimbursement and Recordkeeping Requirements:**

For-profit F/RP centers may participate and claim reimbursement for meals served in any month in which they have 25 percent of their enrollment or licensed capacity, whichever is less, eligible for free and reduced price meals. For-profit centers may not combine children receiving Title XX support with children meeting the free and reduced priced eligibility criteria in order to meet the 25 percent threshold; they must participate as either for-profit Title XX centers or for-profit F/RP centers.

**Sponsorship by For-profit Centers:**

Just like for-profit Title XX centers, for-profit F/RP centers may not sponsor day care homes and may only sponsor centers if they are part of the same legal entity as the sponsoring organization.

**State Reporting Requirements:**

When submitting the March participation data on **FNS-44, Report of the Child and Adult Care Food Program** (Lines 11, 12, and 13; Column A), State agencies should combine the data for both for-profit Title XX centers and for-profit F/RP centers.

Questions and Answers that have arisen since the initial implementation of the temporary provision are attached for your use. Please notify your sponsors and implement this policy as appropriate. If you have any questions, please contact this office.

LANNA KIRK  
Acting Regional Director  
Special Nutrition Programs

Attachment

**Eligibility of For-profit (Proprietary) Centers  
Questions and Answers**

**Q-1 Can a for-profit center switch eligibility criteria for meeting the 25 percent Title XX enrollment or licensed capacity in one month to meeting the 25 percent free and reduced price (F/RP) in another month?**

A-1 Yes, as long as the center can document each month that they meet either the 25 percent Title XX enrollment or licensed capacity or 25 percent F/RP eligible children. Centers cannot combine the two eligibility criteria to reach the 25 percent threshold. States must not hold a center to one method or the other. The choice would depend on what method is most advantageous for the center.

**Q-2 To initially approve a for-profit center under this provision, will a State need to review completed F/RP applications to ensure that 25 percent enrolled children are eligible, or is a certification by the center sufficient?**

A-2 A certification by the center is adequate; however, it might be wise for the State to review the completed applications. This could be accomplished during the pre-approval visit providing States with the opportunity to discuss Program requirements and to train center staff on critical Program operations.

**Q-3 Are States to include for-profit centers in their pre-approval visit schedule?**

A-3 Yes. States must include for-profit centers in the pre-approval visit schedule. The Richard B. Russell National School Lunch Act, section 17(d)(1)(B), Approval of Private Institutions stipulates that "...the State agency conducts a satisfactory visit to the institutions before approving the participation of the institution..." This includes for-profit centers.

**Q-4 Can a for-profit center that does not qualify for CACFP based on Title XX or 25 percent free and reduced price applications in its traditional child care component take applications from its at-risk snack participants and combine the two components to meet the 25 percent threshold?**

A-4 No. In determining a for-profit center's eligibility for at-risk snack reimbursement, only the enrollment or licensed capacity of the traditional child care component of the center should be considered in calculating whether the center meets the 25 percent criterion. In addition, please note that there would be no free and reduced price applications in the CACFP at-risk component because eligibility is based on area data.